

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION

Michael Barrett, III, et al.,)
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Plaintiffs,)
)
)
v.) 2:11-cv-04242-NKL
)
)
Donald M. Claycomb, et al.;)
)
)
Defendants.)

MOTION FOR PRELIMINARY INJUNCTION

Come now Plaintiffs, pursuant to Rule 65 of the Federal Rules of Civil Procedure, and for reasons set forth in this Motion and the accompanying Suggestions in Support, move this Court for entry of a preliminary injunction prohibiting Defendants and their agents from conducting any further testing or processing of the urine specimens collected in September 2011 pursuant to the challenged drug-testing policy until this case is resolved on the merits.

Entry of a preliminary injunction is appropriate in this case because Plaintiffs are likely to succeed on the merits of their claim that the September 2011 application of the challenged drug-testing policy was unconstitutional; there is a real threat of irreparable harm absent an injunction; no harm will be inflicted upon Defendants should a preliminary injunction issue; and the issuance of a preliminary injunction is in the public interest.

A preliminary injunction is necessary because the conduct Plaintiffs seek to enjoin was previously enjoined by this Court; however, on or about February 18, 2013, the Eighth Circuit will issue its mandate that the preliminary injunction be vacated because the injunction was, in the Court's view, overly broad as the Court construed it. While the Court believed that Plaintiffs could not show that mandatory, suspicionless drug-testing would always be unconstitutional as to

all students, including future students, at Linn State Technical College, the Court also acknowledged that the policy could have unconstitutional applications. A preliminary injunction is necessary to prevent further processing and testing of the specimens collected in September 2011 until this Court can determine on the merits where the September 2011 application of the drug-testing policy was, in whole or in part, unconstitutional.

The bond previously posted should be continued.

Accordingly, Plaintiffs request this Court:

- A. Issue a preliminary injunction prohibiting Defendants, their successors, officers, agents, servants, employees, attorneys, and all persons acting in concert with them, or in connection with them, from conducting any further testing or processing of the urine specimens collected in September 2011 pursuant to the challenged drug-testing policy until this case is resolved on the merits; and
- B. Allow Plaintiffs such other and further relief as is just and proper under the circumstances.

Respectfully submitted,

/s/ Anthony E. Rothert
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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served by operation of the Court CM/ECF system upon counsel for each of the Defendants on February 12, 2013.

/s/ Anthony E. Rothert